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From: [REDACTED]

Sent: Thursday, September 2, 2021 1:55:39 PM

To: [REDACTED]

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Subject: re: pre-existing use quote from reg.

1.170A-14(a) sets out that “A qualified conservation contribution is the contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. To be eligible for a deduction under this section, the conservation purpose must be protected in perpetuity.”

1.170-14(e) is under the heading of “Exclusively for conservation purposes.”

1.170-14(g)(5)(ii), which requires notification, is under the heading of “Enforceable in perpetuity.”

- This subsection states that “[T]he donor must agree to notify the donee, in writing, before exercising any reserved right [...] which may have an adverse impact on the conservation interests associated with the qualified real property interest.”

The language you quoted under (e)(3) might allow a preexisting use not to disqualify the deduction under “solely for conservation purposes” grounds, but my reading is that a lack of notification for exercising/continuing a preexisting use may be grounds for disallowance under “protected in perpetuity” grounds under (g)(5)(ii).

Thoughts?